

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Brouwer et al. Conf. No.: 1858
Serial No.: 10/553,553 Group Art Unit: 2872
Filed: 08/21/2006 Examiner: Jennifer A. Doak
For: WING MIRROR UNIT
Docket No.: 065529-0003 Customer No.: 26127

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

Appellants submit this Reply Brief for consideration by the Board of Patent Appeals and Interferences pursuant to 37 C.F.R. § 41.41. The Patent and Trademark Office is hereby authorized to charge any fees required or to credit any overpayment of fees to Deposit Account No. 04-2223.

CERTIFICATE OF TRANSMISSION

I hereby certify that this Reply Brief Pursuant to 37 C.F.R. § 41.41 is, on the date shown below, being transmitted to the U.S. Patent and Trademark Office via the Office's electronic filing system EFS-Web addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: January 16, 2009

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I. ARGUMENTS

Appellants submit this reply to address issues raised in the “Response to Argument” section of the Examiner’s Answer.

A. Rejection of Claims 11-23 and 25-33

Claims 11-23 and 25-33 were rejected as being unpatentable under 35 U.S.C. § 103(a) over Crandall (U.S. Patent No. 5,940,230) in view of McKee (U.S. Patent No. 4,609,265). Appellants respectfully submit that the rejection of claims 11-23 and 25-33 under 35 U.S.C. § 103(a) is improper because the claimed invention would not have been obvious to one of ordinary skill in the art and, moreover, the cited references do not disclose or suggest all of the limitations in the claims.

Appellants rely on their Appeal Brief setting forth their arguments that the rejection of claims 11-23 and 25-33 under 35 U.S.C. § 103(a) is improper, but add a clarification in this Reply Brief. With respect to the assertion in the Examiner’s Answer that Figs. 3 and 4 show tip 52 in two separate relationships with the vehicle body (10), including “a first orientation (as in Fig. 3) and a second orientation (as in Fig. 4) located farther outward with respect to the body of the vehicle” (Examiner’s Answer, p. 9), Appellants respectfully submit that the second orientation is not located farther outward with respect to the vehicle body.

As set forth in independent claim 1, the actuator is configured “to move the main pivot in a linear path further outwardly from said vehicle than the auxiliary pivot.” With respect to Crandall, the Examiner found that the actuator (30, 38, 52) is “configured to move the main pivot (B) in a path further outwardly from said vehicle than the auxiliary pivot (A).” Final Office Action mailed February 20, 2008, p. 4. The only outward movement of the main pivot (B) is to the left as shown in Examiner-modified Figs. 3-4. Examiner’s Answer, p. 10.

However, the outward direction for the main pivot must be the same as the outward direction for the engaging part. This is because Appellants' specification makes clear that the spindle 7 (i.e., the engaging part is located at end of spindle 7) adjusts in an adjusting direction from a first orientation located near the base plate 2 to a second orientation located farther outward with respect to the body 3, so that the main pivot 4, too, adjusts in the adjusting direction, and a translation of the main pivot 4 is obtained. (Page 4, lines 24-29 and line 15). Accordingly, both the engaging part and the main pivot must move in the same adjusting direction (i.e., farther outward with respect to the vehicle body).

If the adjusting direction (e.g., outward direction) for the main pivot must be toward the left as shown in Examiner-modified Figs. 3-4 of Crandall on page 10 of the Examiner's Answer, the adjusting direction (e.g., outward direction) for the engaging part must also be toward the left as shown in Figs. 3-4 in Crandall since the specification requires that the spindle and main pivot move in the same adjusting direction. Defining the term "outward" to simply mean any direction away from the vehicle body (i.e., regardless of its relationship to the direction of movement of the main pivot) would be inconsistent with the Appellants' specification.

Therefore, while Appellants concur that the distance from the vehicle 10 to the engaging portion 52 does change (Examiner's Answer, p. 10), the change is not in accordance with a "second orientation located farther outward with respect to the body of said vehicle" as required by the claims. Particularly, the engaging part 52 is not adjusted farther outward as suggested by the Examiner. Examiner's Answer, p. 10. Rather, engaging part 52 is adjusted in an opposite direction of the outwardly adjusted main pivot – i.e., further inward with respect to the vehicle body.

Accordingly, the engaging part of Crandall (identified element 52) comprises a complex arm construction that is not adjustable between a first orientation located near the body of the vehicle and a second orientation located farther outward (i.e., in the same adjusting direction as the main pivot, namely, to the left as shown in Examiner-modified Figs. 3-4 of Crandall on page 10 of the Examiner’s Answer). The complex arm construction requires that any adjustability of the Examiner-identified engaging part 52 move closer to the vehicle body (Fig. 3) or further inward from the vehicle body – i.e. not in the same direction as the outwardly adjusted main pivot.

Appellants further acknowledge that it is the combination of Crandall and McKee that purportedly discloses the claimed invention. Examiner’s Answer, p. 8. However, the Examiner has identified Crandall as disclosing the limitations with respect to the “engaging part [being] adjustable between a first orientation located near the body of said vehicle and a second orientation located farther outward with respect to the body of said vehicle.” Crandall simply fails to teach or disclose this limitation, and McKee does not address this failure of Crandall to teach or disclose this limitation.

As set forth above, Appellants continue to rely on their Appeal Brief and respectfully submit that the rejection of claims 11-23 and 25-33 under 35 U.S.C. § 103(a) is improper. Accordingly, Appellants request that the rejection be overturned.

B. Rejection of Claims 17-18

Claims 17-18 depend from independent claim 11 and therefore incorporate all of the limitations recited in claim 11. For the reasons stated hereinabove in Section I.A, and for the reasons outlined in their Appeal Brief, Appellants submit that the rejection of claims 17-18 under 35 U.S.C. § 103(a) is improper and requests that the rejection be overturned.

C. Rejection of Claim 19

Claim 19 depends from independent claim 11 and therefore incorporates all of the limitations recited in claim 11. For the reasons stated hereinabove in Section I.A, and for the reasons outlined in their Appeal Brief, Appellants submit that the rejection of claim 19 under 35 U.S.C. § 103(a) is improper and requests that the rejection be overturned.

In addition, in this Reply Brief, Appellants clarify the language of claim 19. Claim 19 recites: “The wing mirror unit according to claim 11, wherein the auxiliary pivot is disconnectably anchored or attached to the base plate or the supporting frame.” As set forth in the specification: “Preferably, projection and recess [formed by the auxiliary pivot 8] are beveled, so that decoupling from the auxiliary pivot takes place with a well-defined force and with little risk of damage. In emergency situations, by decoupling, the wing mirror unit 1 can pivot forward or backward without forcing the actuator housing 6. Subsequently, the auxiliary pivot 8 can be restored by pivoting the wing mirror unit 1 so far back that the journals are again received in the recess under spring action.” See Specification, page 5, line 30 to page 6, line 6. Accordingly, the language of claim 19 clearly means that the auxiliary pivot is disconnectably anchored (i.e., able to be decoupled) or disconnectably attached (i.e., able to be decoupled) to the base plate or the supporting frame. While the Examiner states that “the prior art only need show that the pivot can be ‘disconnectably anchored’ *or* that the pivot be ‘attached’ (emphasis in original),” Appellants respectfully disagree and clarify that the language of the claim, consistent with the specification, requires that the auxiliary pivot be disconnectably anchored or attached (i.e., disconnectably anchored or disconnectably attached).

In contrast to the claim language reciting that the auxiliary pivot be disconnectably anchored or attached to the support frame or base plate, Crandall’s design is such that, when

folding forward, the auxiliary pivot (Examiner identified element A) always remains anchored or attached (i.e., connected) to the supporting frame (Examiner identified element 22). In particular, the auxiliary pivot (Examiner identified element A) remains anchored or attached at all times to the supporting frame (Examiner identified element 22) via arm 28. As acknowledged by the Examiner, “it seems apparent that the pivot is attached to the support frame (22), since it is required to be attached to move element 22.” Examiner’s Answer, p. 17. However, there is no teaching, suggestion, or disclosure in Crandall that the pivot be disconnectably attached, as required in claim 19. The secondary reference, McKee, also fails to teach or disclose this limitation. Accordingly, the identified elements in Crandall and McKee do not meet all of the claimed limitations, namely, that the auxiliary pivot be disconnectably anchored or attached to the base plate or supporting frame.

Because the references cited by the Examiner do not disclose or suggest all of the limitations recited in claim 19, Appellants respectfully submit that the rejection of claim 19 under 35 U.S.C. § 103(a) is improper. Accordingly, Appellants request that the rejection of claim 19 under 35 U.S.C. § 103(a) be overturned.

Respectfully submitted,

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